

JUL 16 2010

U.S. Bankruptcy Court

**BUSH STROUT & KORNFELD**

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July 16, 2010

SENT BY EMAIL

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Ms. Cynthia A. Kuno  
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Re: Meridian

Dear Counsel:

On an out-of-court basis, our firm represents Meridian Mortgage Investors Funds II, V, VII and VIII ("Alleged Debtors"). Consistent with our previous communications to you, the Alleged Debtors consent to the entry of an order in the identical form attached hereto by the Bankruptcy Court at hearing scheduled for Friday, July 16<sup>th</sup> at 11:00 a.m. Although we do not represent Meridian Partners Investor Services, Inc. ("MPMIS") or Meridian Partners Management, Inc. ("MPM"), we are authorized by those two entities to communicate their agreement to entry of the attached order in its identical form. In addition to the relief requested by you and your clients in the pending involuntary bankruptcy cases of the Alleged Debtors, the proposed order includes appointment of an immediate operating trustee, relief that no party has moved for in front of the Bankruptcy Court. The Alleged Debtors propose this relief proactively in order to as quickly and efficiently as possible put the funds' assets and records under the management of an independent party. As you know, the Alleged Debtors' willingness to propose and agree to an immediate appointment of a trustee is conditioned only upon entry of the attached order in the identical form, without change. To the extent that there are any changes to

Filed in  
Court  
161158 July  
2010  
PJR

\* Docket in #10-17952/B


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this order, the Alleged Debtors will need to sign off on any changes prior to entry of an order appointing a trustee.

As I have communicated to you, our firm will not be appearing in court on this matter, but hereby provide consent stated above to entry of the attached order and presentation of this letter, along with the attachment, to Judge Brandt at today's hearing. You are authorized to file this letter with the Court, if necessary.

If you have any questions, please feel free to contact me.

Sincerely,



Armand J. Kornfeld

AJK:cah  
Enclosures  
cc: Clients (via email)

The Honorable Samuel J. Steiner  
Chapter 11  
Hearing Date: July 16, 2010  
Hearing Time: 11:00 a.m.  
Hearing Location: Seattle  
Response Date: July 15, 2010 at 3:00 p.m.

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In Re

Meridian Mortgage Investors Fund V, LLC  
Meridian Mortgage Investors Fund VII, LLC  
Meridian Mortgage Investors Fund VIII, LLC  
Meridian Mortgage Investors Fund II, LLC,

Putative Debtors.

10-17952-SJS (FUND V)  
10-17953-SJS (FUND VII)  
10-17958-SJS (FUND VIII)  
10-17976-SJS (FUND II)

Involuntary Chapter 11

Robert Staudacher, Gary Stevens, Joseph Robert  
Waskom III, Drew Thoresen, Tacor Properties,  
LLC, Eric Gulotta, Kenneth and Loretta Story,  
Tom Friedland, Jim and Lisa O'Neal,

Plaintiffs,

v.

Meridian Mortgage Investors Fund II, LLC,  
Meridian Mortgage Investors Fund V, LLC,  
Meridian Mortgage Investors Fund VII, LLC,  
Meridian Mortgage Investors Fund VIII, LLC,  
MPM Investor Services, Inc., Meridian  
Partnership Management, Inc., and Darren F.  
Berg,

Defendants.

Adv. Pro. No. 10-01376

AGREED ORDER ON JOINT MOTION  
TO ADMINISTRATIVELY  
CONSOLIDATE PROCEEDINGS,  
RESTRAIN THE DEBTORS FROM  
CONTINUING TO OPERATE, USE,  
ACQUIRE, OR DISPOSE OF  
PROPERTY, DIRECTING  
APPOINTMENT OF CHAPTER 11  
TRUSTEE AND APPROVING  
PAYMENT OF FUNDS TO DEBTORS'  
COUNSEL

AGREED ORDER - 1

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1        THIS MATTER came before the Court upon the Motion for Administrative  
2 Consolidation and to Restrain the Debtors from Continuing to Operate, Use, Acquire, or Dispose  
3 of Property (the "Motion"), filed jointly by Drew Thoresen, Tacor Properties LLC, Ken Story,  
4 and Eric Gullota (collectively, the "Fund V and VII Petitioning Creditors"), Tom Friedland, Jim  
5 and Lisa O'Neal, and Kenneth and Loretta Story (collectively, the "Fund VIII Petitioning  
6 Creditors"), Robert Staudacher, Gary Stevens, and Joseph Robert Waskom II (collectively, the  
7 "Fund II Petitioning Creditors"), Conway Jarvis, LLC, David and Christine Buecker, David  
8 Chichester, Jim Stanton, and Steve Jepson (collectively, including the Fund V and VII  
9 Petitioning Creditors, the Fund VIII Petitioning Creditors, and the Fund II Petitioning Creditors,  
10 the "Moving Parties"), and upon the stipulation of the Alleged Debtors and the Moving Parties  
11 for Appointment of a Chapter 11 Operating Trustee and Approving the Payment of Funds to  
12 Debtor's Counsel, as set forth herein,

13        The Court, having reviewed the Motion and the stipulation of the Alleged Debtors and  
14 the Moving Parties as set forth herein, hereby finds as follows:

- 15        1.        These involuntary Chapter 11 cases were commenced on July 9, 2010;
- 16        2.        The Motion sets forth the need for entry of this Order as to each of the alleged  
17 Debtors identified in the above caption (each an "Alleged Debtor" and collectively the "Alleged  
18 Debtors");
- 19        3.        There is a significant risk of irreparable injury to the Alleged Debtors and their  
20 creditors if the relief requested in the Motion is not granted immediately;
- 21        4.        The relief requested in the Motion and ordered below is appropriate pursuant to  
22 11 U.S.C. § 105 and 303(f);
- 23        5.        Notice of the hearing on the Motion was adequate under the circumstances of  
24 these cases, and
- 25        6.        The Alleged Debtors, Meridian Partnership Management, Inc. ("MPM") and  
26 MPM Investor Services, Inc. ("MPMIS") have agreed to entry of this Order. BSK does not

AGREED ORDER - 2

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1 represent MPM or MPMIS, and is simply and solely communicating positions of MPM and  
2 MPMIS to the other parties in this matter.

3 Now, THEREFORE, IT IS HEREBY ORDERED as follows:

4 1. The Motion is granted and shall apply to business conducted by the Alleged  
5 Debtors.

6 2. The cases set forth above in the caption of this Order shall be administratively  
7 consolidated under Case No: 10-17952-SJS. A copy of this Order shall be entered on the main  
8 docket of each of the following cases: 10-17952-SJS, 10-17953-SJS, 10-17958-SJS and 10-  
9 17976-SJS.

10 3. At the specific request and suggestion of the Alleged Debtors, as no party has  
11 sought the appointment of a trustee, the United States Trustee's Office shall appoint a Chapter 11  
12 Operating Trustee, who shall be the Trustee as to each of the Debtors.

13 4. The Alleged Debtors, Meridian Partnership Management , Inc. ("MPM"), MPM  
14 Investor Services, Inc. ("MPMIS"), Darren Berg, and their agents, employees, attorneys, and  
15 those persons in active concert or participation with any of the Debtors and/or Darren Berg  
16 (collectively, the "Debtor Parties") are hereby ordered to immediately turn over (1) all cash or  
17 checks of the Debtors, (2) all information regarding the identity of each of Debtors' bank  
18 accounts including bank statements and passwords, and (3) all notes, mortgages, deeds of trust,  
19 real estate contracts, and all other assets held by or on behalf of any of the Debtors, to any  
20 Chapter 11 Trustee appointed for the Debtors and, until such appointment has been made, to  
21 counsel for the Fund V and VII Petitioning Creditors (the "Custodial Counsel"). With respect to  
22 all electronic accounting records of the Alleged Debtors, MPMIS and MPM, including all  
23 passwords and all computers containing said records, the Debtor Parties, MPMIS and MPM shall  
24 provide access to all computers for inspection by Custodial Counsel or their designated  
25 consultant, and shall arrange for either Computer Forensics or Lighthouse ("Data Expert") to  
26 image/copy all information located on all computers, whether stand alone PC's or servers,

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1 maintained by any of the Debtor Parties', MPMIS' or MPM's businesses, regardless of the  
2 purpose or use of such information. Custodial Counsel or their designated consultant may be  
3 present at the time of imaging work by the Data Expert, if they wish, and shall also be entitled to  
4 contact and communicate directly with the Data Expert. Debtor Parties, MPMIS and MPM shall  
5 pay the cost of the Data Expert's services, except that the Funds shall pay the cost of the  
6 copies/images of all data provided to them by the Data Expert. The appointed Trustee, for an on  
7 behalf of the bankruptcy estates of the Debtors, MPMIS and MPM, shall be granted a non-  
8 exclusive, fully paid up and royalty-free right and license to use the software and systems called  
9 Noteminder Loan Servicing and Assignment 506, such right and license including the right to  
10 grant permissions to others employed by the Trustee, including contractors, consultants, and  
11 attorneys, as desired by the Trustee to assist in or conduct any of such permitted activities for the  
12 benefit of or on behalf of the Trustee or the bankruptcy estates.

13 5. All funds received from or on behalf of the Alleged Debtors, MPMIS or MPM  
14 shall be held in a segregated trust account by Custodial Counsel. Any property received by  
15 Custodial Counsel pursuant to this Order shall be held in trust and in a fiduciary capacity, for the  
16 benefit of the respective Fund's investors, pending further order of the Court, and shall be  
17 promptly turned over to a Chapter 11 Trustee if appointed. It is understood, stipulated by each  
18 of the undersigned counsel, and the order of this Court that, to the extent one or more accounts of  
19 Custodial Counsel contain mixed funds belonging to more than one of the Alleged Debtors, these  
20 funds are combined only for the limited purpose of preservation on an emergency basis, the  
21 estates of the Alleged Debtor are not being commingled or substantively consolidated, and the  
22 Custodial Counsel shall keep accounting records to facilitate the tracing of all funds deposited by  
23 Custodial Counsel to the correct Alleged Debtor.

24 6. Any banks which are in possession of any of the Alleged Debtors', , funds or  
25 accounts are hereby ordered to prohibit access by the Alleged Debtors, and freeze such accounts  
26 immediately pending further Order of this Court. Further, the Debtor Parties, MPMIS and MPM

AGREED ORDER - 4

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1 are hereby prohibited from withdrawing funds from any of the Alleged Debtors', bank accounts  
2 or obtaining any property of the Alleged Debtors that may be in possession of any bank or other  
3 third party.

4 7. The Debtor Parties, MPMIS and MPM are hereby prohibited from deleting,  
5 damaging, or destroying any records of or related to any of the Alleged Debtors, MPMIS or  
6 MPM including any and all electronic records.

7 8. The Debtor Parties, MPMIS and MPM are hereby prohibited from transferring  
8 funds from any Alleged Debtor, or making any payments or advances to any other Alleged  
9 Debtor, including without limitation any payments pursuant to any notes that are assets of any  
10 Alleged Debtor (each a "Debtor Note"). If any of the Debtor Parties, MPMIS or MPM receive  
11 any payments under any Debtor Note, or otherwise comes into possession or control of any funds  
12 owed to any of the Alleged Debtors, such Debtor Party, MPMIS or MPM shall immediately  
13 transfer the funds to any Chapter 11 Trustee appointed for the Alleged Debtors and, until such  
14 appointment has been made, to Custodial Counsel who shall hold such funds in trust pending  
15 further order from this Court. The Debtor Parties, MPMIS and MPM are prohibited from  
16 interfering in any way with the payment to the Alleged Debtors of any payments owed to such  
17 Alleged Debtor by any obligor under a note, mortgage, deed of trust, real estate contract, or other  
18 asset of the Alleged Debtor.

19 9. The Debtor Parties, MPMIS and MPM are prohibited from transferring any and  
20 all assets of any of the Alleged Debtors until the appointment of the Chapter 11 Trustee, except  
21 as necessary to comply with the terms of this Order. All assets shall be protected to the fullest  
22 extent possible, and if any asset is subject to exigent risk, the Debtor Parties, MPMIS and MPM  
23 shall notify Custodial Counsel who shall be authorized to request a Court order as may be  
24 necessary under the circumstances.

25 10. If urgent enforcement or expansion of this Order is required, the Court orders that  
26 the time for any emergency request shall be shortened to not less than one (1) business day's

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1 telephonic or electronically mailed notice. Notice shall be provided to the Alleged Debtors, their  
2 counsel of record, all parties requesting special notice in these proceedings, the attorney for the  
3 United States Trustee and counsel for the petitioning creditors. Parties shall make best efforts to  
4 file responsive pleadings; however, the Court shall consider oral responses made at the time of  
5 any hearing.

6 11. The Debtors shall be authorized to retain the firm of Bush, Strout and Kornfeld  
7 ("BSK") for the limited purpose of communicating with investors' various counsel on matters  
8 necessary to facilitate the purposes of this Order on behalf of the Debtors, MPMIS and MPM and  
9 discussions among the parties regarding appointment of a trustee and entry of agreed orders for  
10 relief in these cases. BSK shall not appear as counsel of record in these proceedings and shall  
11 have no continuing duty of representation of the Debtors. No further order or employment  
12 application shall be necessary with respect to BSK's retention for the limited purposes set forth  
13 herein. Notwithstanding the provisions of this Order concerning the impounding of fees, the  
14 Debtors shall be each authorized to remit to BSK a post-petition retainer in the amount of up to  
15 \$10,000, which shall be the maximum amount this Court will allow at such time compensation is  
16 requested by BSK for the limited services set forth above. BSK may submit an application to  
17 this Court for approval and payment of its fees following entry of orders for relief, and such  
18 application shall be in the form required of fee applications of counsel. BSK shall not be  
19 prejudiced in its application by its assistance to MPMIS or MPM in obtaining consent to entry of  
20 this Order.

21 DONE IN OPEN COURT this \_\_\_\_ day of July, 2010.

22  
23  
24 Philip H. Brandt  
United States Bankruptcy Judge

25 Presented by

26  
AGREED ORDER - 6

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2 **DRUMHELLER P.S.**

3 By: /s/ Cynthia A. Kuno  
4 Cynthia A. Kuno, WSBA No. 17217

5 Attorneys for Attorneys for Fund V and  
6 VII Petitioning Creditors and Fund VIII  
7 Petitioning Creditors

8 **KELLER ROHRBACK, L.L.P.**

9 By /s/ John Mellen  
10 John Mellen, WSBA No. 12373

11 Co-Attorneys for Fund V and VII  
12 Petitioning Creditors and Fund VIII  
13 Petitioning Creditors

14 Approved as to Form by:

15 **FOSTER PEPPER PLLC**

16 By: /s/ Jane Pearson  
17 Jane Pearson, WSBA No. 12785

18 Attorneys for Fund II Petitioning Creditors  
19

20 **PERKINS COIE LLP**

21 By: \_\_\_\_\_  
22 Alan D. Smith, WSBA No. 24964  
23 John S. Kaplan, WSBA No. 23788

24 Attorneys for Creditors David Chichester,  
25 James Stanton, and Steven Jepson  
26

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1 **DAVIS WRIGHT TREMAINE LLP**

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5 Attorneys for Creditors David and  
6 Christine Buecker

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9 By: /s/ John R. Rizzardi  
John R. Rizzardi, WSBA No. 9388

10 Attorneys for Eric Jarvis and Conway  
11 Jarvis, LLC

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